

DECLARATION

As the below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled "APPARATUS AND METHOD FOR BLOOD OXYGENATION," the specification of which:

X is attached hereto.

was filed on _____ as Application Serial No.: _____

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims.

We acknowledge the duty to disclose to the Patent and Trademark Office all information known to us to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

We hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

PRIOR FOREIGN APPLICATION(S)

Priority Claimed

(Number)	(Country)	(Date Filed)	Yes/No
_____	_____	_____	_____

We hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, we acknowledge the duty to disclose all information known to us to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56, which become available between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing Date)	(Status)
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We hereby direct that all correspondence and telephone calls be addressed to Michael G. Fletcher, Fletcher, Yoder & Van Someren, P.O. Box 692289, Houston, Texas 77269-2289, (281) 970-4545.

We hereby declare that all statements made of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name: Vincent Divino, Jr.
(First) (Initial) (Last)

Inventor's Signature: Vincent Divino Jr.

Date: 9/30/99 Country of Citizenship USA

Residence Address: 24436 Muela
(Include number, street name, city, state, and country)
Mission Viejo, California 92692

Post Office Address:
(If different)

Inventor's Full Name: William R. Patterson
(First) (Initial) (Last)

Inventor's Signature: W. R. Patterson

Date: 9/30/99 Country of Citizenship USA

Residence Address: 90 Windjammer Drive
(Include number, street name, city, state, and country)
Irvine, California 92614

Post Office Address:
(If different)

Inventor's Full Name: Jeffrey L. Creech
(First) (Initial) (Last)

Inventor's Signature: Jeffrey L. Creech

Date: 9/30/99 Country of Citizenship USA

Residence Address: 3220 Sawtelle Blvd., #301
(Include number, street name, city, state, and country)
Los Angeles, California 90066

Post Office Address:
(If different) _____

Inventor's Full Name: Stephen E. Myrick
(First) (Initial) (Last)

Inventor's Signature: Stephen - Myrick

Date: 9/30/99 Country of Citizenship USA

Residence Address: 2826 Stephenson Place
(Include number, street name, city, state, and country)
Tustin, California 92782

Post Office Address:
(If different) _____

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Divino, Jr. et al.

Serial No.: Unassigned

Filed: Herewith

For: APPARATUS AND METHOD FOR
BLOOD OXYGENATION

§ Group Art Unit: Unassigned
§
§
§ Examiner: Unassigned
§
§ Atty Docket: THOX:0021
§ PA030-US
§

POWER OF ATTORNEY

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The undersigned, being the inventor named in the above-identified application, hereby revokes any previous Powers of Attorney and appoints:

Joseph A. Uradnik, Reg. No. 36,955

of THEROX, INC.; and also

Michael G. Fletcher, Reg. No. 32,777; Robert A. Van Someren, Reg. No. 36,038;
and Patrick S. Yoder, Reg. No. 37,479

each an attorney with the law firm of FLETCHER, YODER & VAN SOMEREN, as its attorneys so long as they remain with such law firm, with full power of substitution and revocation, to prosecute the application, to make alterations and amendments therein, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Letters Patent.

Please direct all communications as follows: Michael G. Fletcher, FLETCHER, YODER & VAN SOMEREN, P. O. Box 692289, Houston, Texas 77269-2289, (281) 970-4545.

Date: 9/30/99

Vincent Divino
Vincent Divino, Jr.

Date: 9/30/99

W. R. Patterson
William R. Patterson

Date: 9/30/99

Jeffrey L. Creech
Jeffrey L. Creech

Date: 9/30/99

S. E. Myrick
Stephen E. Myrick

Applicant or Patentee: Divino, Jr. et al.
Serial or Patent No: Unassigned
Filed or Issued: Herewith
For: APPARATUS AND METHOD FOR BLOOD OXYGENATION

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 C.F.R. 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

the owner of the small business concern identified below:
 an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: TherOx, Inc.

ADDRESS OF CONCERN: 2400 Michelson Drive, Irvine, California 92612

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. 121.12, and reproduced in 37 C.F.R. 1.9(d), for purposes of paying reduced fees under Section 41 (a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled: APPARATUS AND METHOD FOR BLOOD OXYGENATION by inventor(s) described in

the specification filed herewith
 Application Serial No.: _____, filed: _____
 Patent No.: _____, issued: _____

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 C.F.R. 1.9(d) or by any concern which would not qualify as a small business concern under 37 C.F.R. 1.9(d) or a nonprofit organization under 37 C.F.R. 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. 1.27)

FULL NAME: _____

ADDRESS: _____

INDIVIDUAL

SMALL BUSINESS CONCERN

NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Paul J. Zalesky
TITLE OF PERSON OTHER THAN OWNER: President
ADDRESS OF PERSON SIGNING: 2400 Michelson Drive, Irvine, California 92612
SIGNATURE: Paul J. Zalesky DATE: 9/30/99